UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
EDISON, NJ 08837

DATE: MAY 4 2009

SUBJECT: Confirmation of Verbal Authorizations for the Removal Action Taken at the Parkway Village Site, Jamaica, Queens County, New York – **ACTION MEMORANDUM RV1**

FROM: Dilshad J. Perera, On-Scene Coordinator
Response and Prevention Branch

TO: Walter E. Mugdan, Director
Emergency and Remedial Response Division

THRU: Eric Mosher, Chief
Response and Prevention Branch

Site ID No.: YV

I. PURPOSE

The purpose of this Action Memorandum is to document five verbal authorizations for the removal action conducted at the Parkway Village Site ("Site"), located at 81-26 150th Street, Jamaica, Queens County, New York 11435.

Field activities for this Site were initiated on October 23, 2006 and were completed on November 17, 2006. A total of $475,000 was authorized for this Site, $425,000 of which was from the Regional Advice of Allowance. The Removal Action was taken in support of the Environmental Protection Agency's ("EPA") Criminal Investigation Division ("CID") execution of a search warrant to locate, identify and mitigate improperly disposed asbestos in a residential community. Under the terms of the search warrant, CID was limited to specific areas of the Site that they could excavate and search for asbestos waste.

The Site is not proposed for listing on the National Priorities List ("NPL"). There are no nationally significant or precedent setting issues associated with this removal action.

II. SITE CONDITIONS AND BACKGROUND

The Comprehensive Environmental Response, Compensation and Liability Information System identification number for this time critical removal action is **NYN000206033.**

A. Site Description

1. Removal site evaluation (RSE)

On October 4, 2006, EPA's National Enforcement Investigation Center ("NEIC") formally requested support from the EPA Removal Program in the execution of a search warrant at the Parkway Village Site. NEIC is responsible for sample collection and analysis on sites that are under investigation by CID. The search warrant was based on information received by CID that asbestos containing material ("ACM") was present throughout the Site which represented an ongoing release of a hazardous substance. The ACM material was believed to have been buried in place following maintenance activities conducted in buried utility trenches which serviced the residential dwellings of the Site. The piping in the utility trenches was coated with asbestos type insulation. During maintenance activities, the buried piping was exposed through excavation creating a threat of release through its friability. The asbestos insulation was removed to perform the required maintenance and then it was left in the excavation and covered with backfill. The ACM contamination exposed during the execution of the search warrant warranted mitigative action under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, 42 U.S.C. §§ 9601 et. seq.

Due to the urgent nature of this request, a formal Removal Site Evaluation ("RSE") was not conducted. Rather, the information reported by CID was confirmed through on Site analysis during the removal action. NEIC personnel used Polarized Light Microscopy ("PLM") analysis equipment to confirm the presence of ACM in the collected samples.

2. Physical location

Parkway Village is located at 81-26 150th Street, Jamaica, Queens County, New York 11435. It is situated north of Grand Central Parkway, south of Union Turnpike, west of Main Street and east of Parsons Boulevard. The surrounding area is heavily urbanized and consists of residential dwellings and retail stores. Immediately to the east of Parkway Village is the Queens Hospital Center.

3. Site characteristics

Parkway Village is a co-operative residential complex consisting of approximately 109 individual buildings. The buildings are all one and two story structures set on land parcels less than one eighth acre in size. The occupants of these dwellings own shares in the co-operative. Parkway Village was built in the 1940's as a housing complex for the United Nations staff. As a cost savings measure, the heating units at the Site were placed in a centralized location. Heat from these units was transferred to other nearby buildings via steam pipes housed in sub-surface utility trenches. The steam pipes are insulated with asbestos. CID received reports which alleged that at various times between 2002 and 2006 when these steam pipes were serviced, the asbestos insulation was rendered friable when improperly removed and not properly disposed. Loose asbestos insulation was improperly disposed on various surface areas on the Site. It was further alleged that asbestos was kept in a dry state, rather than being properly wetted and disposed, when reburied either directly in the ground adjacent to the excavated utility trench or in bags in the vicinity of the utility trench and then covered with backfill.

4. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant

The statutory sources for designating asbestos as a hazardous substance under CERCLA are the Clean Air Act ("CAA")Section 112 and the Clean Water Act Section 307(a).

The presence of asbestos was identified through samples collected by NEIC during the removal action. The asbestos material was confirmed in samples collected from waste found in the utility trenches. Similar types and concentrations of asbestos were discovered in each of the three areas that EPA excavated as part of this removal action.

The route of exposure to the asbestos existing on Site is through direct contact. Direct contact could occur during maintenance activities of the buried steam lines. Workers could also inadvertently transfer asbestos particles outside of the excavation on their clothing, hair or shoes. Exposure to weather conditions, especially wind, during maintenance activities could also lead to asbestos particles being transferred out of the excavation. Any asbestos released from the excavation would continue to weather, becoming more friable and creating a greater exposure risk. Friability is the ease with which a material can be crumbled, pulverized or reduced to powder when dry, by hand pressure. The degree of friability of the ACM determines the potential for fiber release to the air. Once released, asbestos fibers have the ability to remain entrained in the air for extended periods of time. The residences of Parkway Village are within

100 feet of the buried steam pipe locations. Maintenance activities conducted on this piping that did not properly address the asbestos insulation presented and would continue to present a risk of exposure of friable asbestos particles to the workers and local residents.

5. NPL status

The Site is not currently on the NPL and there are no plans for its inclusion.

6. Maps, pictures and other graphic representations

Please see Attachment 1.

B. Other Actions to Date

1. Previous actions

CID obtained information that the Site contained ACM which had been improperly disposed. On October 4, 2006, NEIC formally requested support from the EPA Removal Program in the execution of a search warrant to locate, identify and dispose of this material.

2. Current actions

Field activities for this Site were initiated on October 23, 2006 and were completed on November 17, 2006. Approximately $425,000 was expended from the Regional Advice of Allowance to assist CID and NEIC and address the threats posed by the asbestos waste discovered on Site. The actions taken by EPA were effective in confirming the asbestos threat and properly disposing of the ACM. The total past response costs expended by EPA for this removal action were $490,612.18 plus interest. On August 6, 2008 Parkway Village and EPA signed an Agreement For Recovery of Past Response Costs, by which Parkway Village agreed to pay 100% of EPA's past response cost plus interest. On December 19, 2008 Parkway Village gave EPA a check for $490,612.18 plus interest totaling $498,301.79. Based on the facts know to EPA at this time and providing that a change in circumstances does not arise at the Site, EPA does not currently anticipate conducting any additional removal activities at this Site.

C. State and Local Authorities' Roles

1. State and local actions to date

Prior to the EPA mobilization, a maintenance crew hired by Parkway Village excavated a section of buried steam pipes adjacent to one of the areas specified in the CID search warrant. NEIC personnel observed

loose ACM left dry lying on top of the excavated soil in this area. The presence of ACM was later confirmed by NEIC personnel on Site using PLM.

The observations of NEIC personnel were referred to the New York City Department of Environmental Protection ("NYCDEP"), since the area in question was not part of the CID search warrant. A NYCDEP official collected samples from the excavated soil and confirmed that ACM was present. A notice of violation was issued to Parkway Village which required the mitigation of the ACM observed outside the search warrant area. Parkway Village subsequently hired a contractor and the area was successfully mitigated with NYCDEP oversight.

2. Potential for continued State/local response

NYCDEP will continue to monitor Parkway Village for potential excavation during the servicing of underground utilities.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

The conditions at the Site meet the criteria under the provisions of CERCLA, as amended, 42 U.S.C. §§ 9601 et. seq. for a removal action as described in 40 CFR § 300.415(b) (2) of the National Contingency Plan (NCP). Factors that support conducting a removal action at the Site include:

A. Threats to Public Health or Welfare

(i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants

Based on the presence of buried ACM alongside buried steam pipes, there was a substantial threat to workers excavating areas of buried utilities for servicing. In addition, the residents were and remain in close proximity to any excavations taking place at Parkway Village where they can be exposed to asbestos particles made friable once disturbed.

Asbestos is a general term used to describe minerals that tend to form fibers when they are broken. These minerals are formed under conditions of very high heat and pressure deep within the earth, and they are resistant to the types of temperatures and pressures found in our environment at the surface. The chemical composition of asbestos is unchangeable; an asbestos mineral will always break into fibers. Large fibers have the potential to break into smaller ones, which eventually results in its reduction to a microscopic size. Due to their microscopic size, shape and lightness, these fibers act more like a gas than a dust.

The most significant human exposure pathway for asbestos is the inhalation of respirable asbestos fibers. The ingestion of fibers is an exposure pathway of concern for workers or children who may come into contact with site materials. In addition to environmental exposures, the improper handling of work clothing from on-Site workers may also pose a danger. Workers can carry the fibers home in their clothing and hair and expose other family members.

Asbestos exposure may cause two primary classes of health effects. The first is asbestosis, a non-malignant disease characterized by a progressive scarring of the lung and pleura. This condition progresses slowly over many decades, and may continue even after the asbestos exposure has ceased. As microscopic scarring builds up, the lungs become stiff and restricted with thickening in the walls of the breathing spaces. The stiffening of the lungs, when severe, can make it difficult to breathe. The other major class of asbestos-related health effects is mesothelioma and lung cancer after apparently minimal exposure to asbestos.

All asbestos-related malignancies have a latency period. There is a considerable time interval between asbestos exposure and when lung cancer, mesothelioma, or the other asbestos-related cancers are seen. This latency period may vary from 20 to 40 years, although some cases may occur earlier.

The current Occupational Safety and Health Administration standard for asbestos in the workplace is 0.1 fibers per cubic centimeter of air as an eight-hour time-weighted average. According to the National Institute for Occupational Health and Safety evaluation of all available human data provides no evidence for a threshold or for a "safe" level of asbestos exposure.

(vii) The availability of other appropriate Federal or State response mechanisms to respond to the release.

EPA was the only government agency capable of taking timely and appropriate action to respond to the threat posed by the presence of the asbestos at the Site. EPA was called in by NEIC in an emergency situation to assist in the execution of a search warrant.

B. Threats to the Environment

Should an asbestos release occur, the natural flora and fauna surrounding the Site will be negatively impacted.

IV. ENDANGERMENT DETERMINAION

Actual or threatened releases of hazardous substances, particularly friable asbestos particles during maintenance activities of buried steam piping at this

Site, if they had not been addressed by implementing the response action selected in this Action Memorandum, may have presented an imminent and substantial endangerment to the public health or welfare or the environment.

V. PROPOSED ACTIONS AND COSTS

A. Actions Taken

1. Action Description

Field activities for this Site were initiated on October 23, 2006 and were completed on November 17, 2006. Three of the five planned excavations were completed, each of which confirmed that asbestos waste had been improperly disposed. Sufficient information regarding the asbestos waste was obtained from the three excavations making the two remaining excavations unnecessary. The location for each of the excavations was identified in the search warrant obtained by CID.

Each excavation was conducted in a similar manner. An enclosed tent was installed over the proposed excavation area. The area was wetted while the excavation proceeded to limit fugitive dust emissions. The tent was also put under negative pressure and equipped with a High Efficiency Particulate Air ("HEPA") filter to further protect nearby residents. A mini excavator was used to refine the limits of the excavation and minimize the friability of any buried asbestos waste. The excavated material was covered with plastic and weighted down until off-Site disposal was accomplished. Constant air monitoring was conducted during the excavation and load out activities to ensure the safety of nearby residents.

The safety procedures employed during excavation activities were successful in preventing any releases to the environment. NEIC performed sampling of the suspected asbestos material using on-Site PLM equipment. The excavated soil was treated as ACM and disposed of at facilities in compliance with the EPA Off Site Rule. Following excavation, each area was backfilled with certified clean fill, graded, seeded and restored to reflect the original conditions.

2. Contribution to remedial performance

The Site is not on the NPL. The removal activities conducted will not impede any future response actions at this Site should they become necessary.

3. Description of alternative technologies

Site activities were conducted in support of a search warrant. The location of the asbestos waste and its proximity to nearby residents precluded the use of any alternative technologies.

4. Engineering Evaluation/Cost Analyses ("EE/CA")

Due to the time-critical nature of this removal action, an EE/CA was not prepared.

5. Applicable or relevant and appropriate requirements ("ARARs")

ARARs within the scope of this project, including the National Emission Standards for Hazardous Air Pollutants ("NESHAP") for Asbestos, 40 C.F.R. Part 61, Subpart M under the CAA that pertain to the removal and disposal of ACM were met to the extent practicable.

6. Project Schedule

On October 4, 2006, NEIC formally requested support from EPA for assistance in executing a search warrant at this Site. Due to the urgent nature of the request, the action was initiated through a verbal authorization by the Emergency and Remedial Response Division ("ERRD") Deputy Director. Field activities for this Site were initiated on October 23, 2006 and were completed on November 17, 2006.

B. Estimated Costs

The funding ceilings for this Action Memorandum were authorized under five separate verbal authorizations. The amount of each authorization, the grand total of all funds authorized, the authorizing official and the dates of each authorization are listed in the table below.

	Verbal Authorization Number					
	1	2	3	4	5	GRAND TOTAL
Total Cleanup Contractor Cost (Includes 20% Contingency)	$30,000	$120,000	$150,000	$100,000	$25,000	$425,000
Other Extramural Costs (REAC) not Funded from the Regional Allowance	$0	$15,000	$0	$0	$0	$15,000
Subtotal, Extramural Costs	$30,000	$135,000	$150,000	$100,000	$25,000	$440,000
Extramural Contingency Costs	$0	$35,000	$0	$0	$0	$35,000
Total, Extramural Removal Action Project Ceiling	$30,000	$170,000	$150,000	$100,000	$25,000	$475,000
Approving Official	Deputy Director ERRD	Director ERRD	Director ERRD	Director ERRD	Director ERRD	
Approval Date	Oct. 11, 2006	Oct. 16, 2006	Oct. 30, 2006	Nov. 3, 2006	Nov. 10, 2006	

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

The removal action was conducted in support of a criminal search warrant to provide the mechanism for unearthing buried ACM transporting and disposing the ACM, and the final grading and seeding of the excavated areas.

VII. OUTSTANDING POLICY ISSUES

None.

VIII. ENFORCEMENT

A total of three areas covered by the search warrant were addressed during this removal action. Based on observations made during the removal action, it is likely that there are additional locations of on-Site buried asbestos. This being the case the entire property is to be treated as containing buried ACM and as such any future excavations will be approached as ACM events, by requiring the notification of DOJ and NYCDEP when an area at the Site is excavated beyond two or more feet deep.[1]

COST TYPE	FUNDING REQUESTED IN THIS ACTION MEMORANDUM
Direct Extramural	$475,000
Direct Intramural	$ 95,000
Subtotal, Direct Costs	$570,000
Indirect Costs (Direct Costs x Regional Indirect Cost Rate 27.36% x $570,000)	$155,952
Total Estimated EPA Costs (Direct and Indirect) Eligible for Cost Recovery	**$725,952**

[1] The total EPA costs for this removal action are based on the full-cost accounting practices that will be eligible for cost recovery and are estimated to be $725,952. This figure includes direct costs which include direct extramural costs and direct intramural costs, and indirect costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including DOJ costs and may be adjusted. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

Based upon the Agreement For Recovery of Past Response Costs signed by EPA and Parkway Village on August 6, 2008 the past response costs expended by EPA for this removal action were $490,612.18. Under this Agreement Parkway Village agreed to pay EPA 100% of its past response costs plus interest through the date of payment. On December 19, 2008 Parkway Village paid EPA $498,301.79.

IX. RECOMMENDATION

This decision document represents the confirmation of five verbal authorizations for the removal action completed at the Parkway Village Site, located in Jamaica, Queens County, New York. It was developed in accordance with CERCLA, as amended, and is not inconsistent with the NCP. A total of $475,000 was authorized for this Site, $425,000 of which was from the Regional Advice of Allowance.

This decision document was prepared to document the threats posed by the Site. It is also consistent with the Administrative Record being prepared for the Site. Conditions at the Site met the criteria for a removal action pursuant to Section 300.415 (b)(2) of the NCP.

Please indicate your approval of the verbal authorizations for the Parkway Village Site removal action per the current delegations of authority, by signing below.

Approved: _____ Date: May 4, 2009
Walter E. Mugdan, Director
Emergency and Remedial Response Division

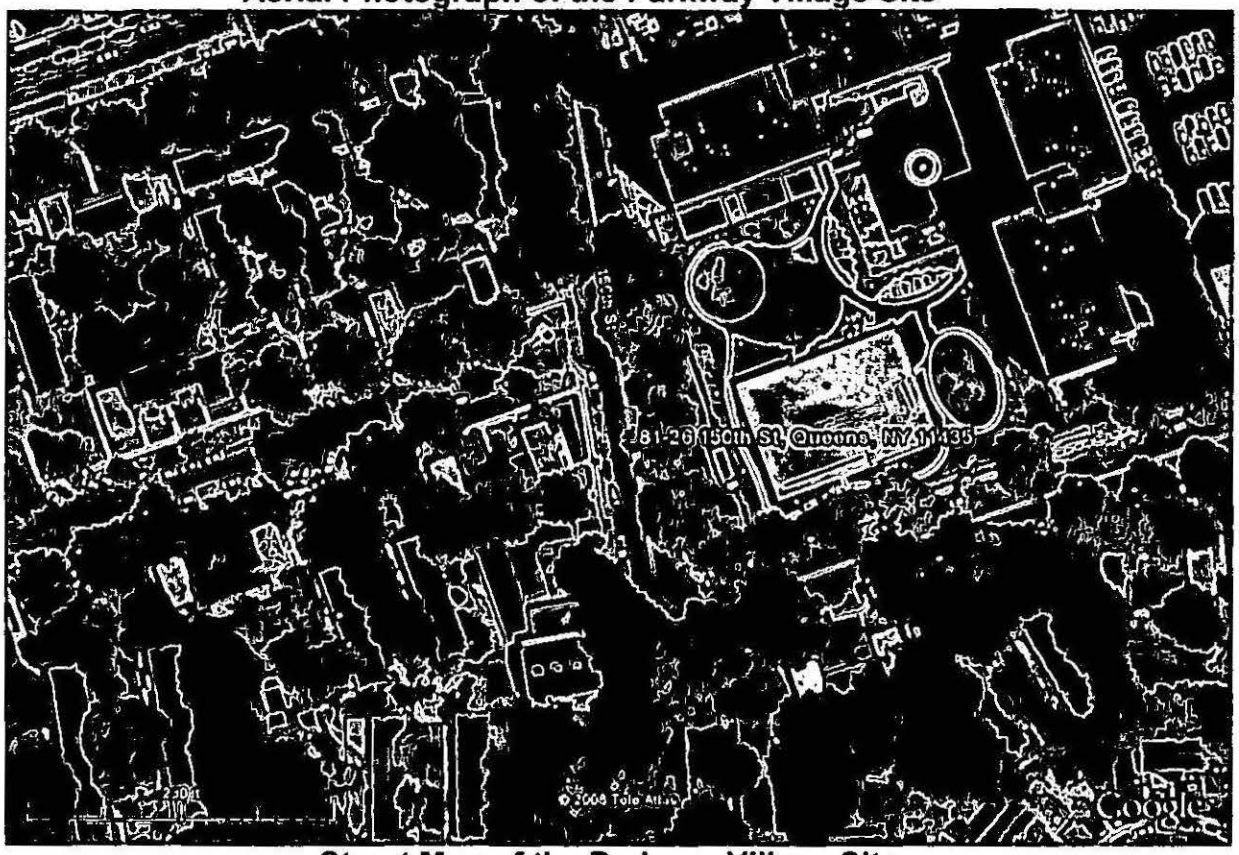
Disapproved: _____ Date: _____
Walter E. Mugdan, Director
Emergency and Remedial Response Division

cc: (after approval is obtained)

W. Mugdan, ERRD-D
J. LaPadula, ERRD-DD
E. Mosher, ERRD-RPB
J. Rotola, ERRD-RAB
J. Daloia, ERRD-RPB
B. Grealish, ERRD-RAB
R. Basso, ERRD
T. Lieber, ORC-NYCSFB
V. Capon, ORC-NYCSFB
A. Cirillo, ORC-NYCSFB
P. Brandt, PAD
R. Manna, OPM-FMB
T. Riverso, OPM-GCMB
T. Grier, 5202G
P. McKechnie, OIG
C. Kelley, RST
A. English, NYSDEC
A. Raddant, USDOI
L. Rosman, NOAA
L. Battes, NYSEMO
G. Litwin, NYSDOH

ATTACHMENT 1

Aerial Photograph of the Parkway Village Site



Street Map of the Parkway Village Site